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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,659	10/28/2003	Masahiro Inomata	3140-017	3997
33432	7590	04/19/2005	EXAMINER	
KILYK & BOWERSOX, P.L.L.C. 53 A EAST LEE STREET WARRENTON, VA 20186			PRITCHETT, JOSHUA L	
			ART UNIT	PAPER NUMBER
			2872	

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/694,659

Applicant(s)

INOMATA, MASAHIRO

Examiner

Joshua L. Pritchett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/04, 10/03
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____

DETAILED ACTION

Claim Objections

Claims 1-11 are objected to because of the following informalities:

Regarding claims 1-11, the use of the term “simple” to distinguish between two different observation condition settings and observations images is confusing. The examiner suggests changing the claim language to say “a first observation condition setting” and “a second observation condition setting” to allow the claimed to be more readily understandable.

Regarding claims 7 and 8, claims 7 and 8 have potential problems for proper support from the parent claim 6. Claims 7 and 8 are drawn to illumination method and brightness of an image respectively. Claim 6 lists a total of four choices for the simple observation condition setting section. If someone were to select one of the choices other than illumination method or brightness of an image the claims 7 and 8 would lack support. The examiner suggest amending claims 7 and 8 to include the limitations of claim 6 as they pertain to the respective setting sections of claims 7 and 8 and changing claims 7 and 8 to depend from claim 1.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Bacus (US 6,396,941).

Regarding claims 1, 10 and 11, Bacus discloses a magnifying observation apparatus comprising a simple observation condition setting section for setting simple observation conditions for simply acquiring a plurality of observation images (Fig. 1A); a simple observation image display for displaying a plurality of simple observation images acquired per the plurality of simple observation conditions set with the simple observation condition setting section (col. 6 lines 42-45); a selection section for selecting a desired simple observation image form among the plurality of simple observation images displayed on the simple observation image display section (Figs. 2-3; col. 6 lines 43-50); an observation condition setting section for setting further observation conditions required based on the simple observation conditions set to the simple observation image selected with the selection section (col. 3 lines 43-50); and an observation image display section for displaying an observation image acquired based on the observation conditions set with the observation conditions setting section (Figs. 2-3). Bacus further discloses photographing an observation image (col. 5 lines 10-17).

Regarding claim 2, Bacus discloses a simple observation image acquisition section for acquiring simple observation images per the plurality of simple observation conditions set with

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the simple observation condition setting section (Fig. 1A); a simple observation image storage section for storing a plurality of simple observation images acquired with the simple observation image acquisition section (Fig. 1B); an observation image acquisition section for acquiring an observation image based on the observation conditions set with the observation condition setting section (col. 6 lines 42-45), wherein the simple observation image display section displays the plurality of simple observation images stored into the simple observation image display section and the observation image display section displays the observation image acquired with the observation image acquisition section (Figs. 2-3; col. 5 line 10 – col. 7 line 4).

Regarding claim 3, Bacus discloses the simple observation image display section lists a plurality of simple observation images (col. 6 lines 42-45).

Regarding claim 4, Bacus discloses the simple observation image display section comprises a switch section for selectively displaying the plurality of simple observation images (col. 6 lines 42-45).

Regarding claim 5, Bacus discloses an adjustment section for performing at least positioning and focusing on an observation image displayed on the observation image display section before setting simple observation conditions by the simple observation condition setting section (col. 5 lines 40-48).

Regarding claim 6, Bacus discloses the simple observation conditions set with the simple observation condition setting section include illumination method (col. 18 lines 5-12) and brightness of an image (col. 18 lines 5-12).

Regarding claim 7, Bacus discloses the adjustment method is made by way of selecting between incident-light illumination and transmitting illumination as an illumination direction,

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selection between peripheral illumination and side illumination, and selection among a diffuser, a polarizer and a transmitted light without using filters as a filter for an illumination light (col. 18 lines 5-12).

Regarding claim 8, Bacus discloses control of the brightness of an image is done by at least one of control of the light quantity of the illumination, adjustment of the shutter speed of the imaging sections, gain control and control of white balance (col. 18 lines 5-12).

Regarding claim 9, Bacus discloses at least the characteristics of an observation subject is set with the simple observation condition setting section (col. 5 lines 40-50).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua L. Pritchett whose telephone number is 571-272-2318.


The examiner can normally be reached on Monday - Friday 7:00 - 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A. Dunn can be reached on 571-272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JLP *JP*


DREW A. DUNN
SUPERVISORY PATENT EXAMINER